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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,637	07/30/2003	Manabu Yamazoe	03500.013606.1	9143
5514	7590	02/23/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			SHERALI, ISHRAT I	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	

2621

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/629,637	YAMAZOE ET AL.	
	Examiner	Art Unit	
	Sherali Ishrat	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-8 and 10-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/337,548.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/30/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 15-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 and 6-7 of U.S. Patent No. 6,628,825. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 15-16 are broader than 1 and 6-7. Claims 15-16 of instant application and claims 1 and 6-7 of U.S. Patent No. 6,628,825 both recite detecting the luminosity of highlight and shadow point, obtaining a hue of highlight point and the shadow point from plural pixel of the luminosity (), executing correction on the original image based on the highlight point, the shadow point and the hue, executes color fog correction by matching color solid axis of the original image with an axis indicating the luminosity.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 6-8, 10-11, 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Dalke et al. (US 4, 488,245).

Regarding claims 6, 10, and 13 discloses detecting a color solid axis of an original image (Dalke in col. 6, lines 45-60, states in the graphic art where shifts from RGB to CYMK are frequent, it is possible to approximate C1, C2 and C3 or I [luminance] x, y [chrominance/color difference] is shown, selection of color coordinates axes may be altered, provided the three axes span color space. FIG 4D illustrate the shifting the C1 or I axis from the luminance area. This corresponds to detecting a color solid axis of an original image);

judging an exposure state of the original image from a positional relationship between color solid axis and axis indicating the luminosity in a color space representing the color solid (Dalke, in col. 6, lines 65-60, states if it is desired to detect color reflected light from a specific surface, C1 axis may be aligned with that color curve to assist in maximizing variation of luminance for that color. This corresponds to judging an exposure state of the original image from a positional relationship between color solid axis and axis indicating the luminosity in a color space by detecting low variation of luminance [under exposed /overexposed]),.

setting an image correction condition according result of judgment (Dalke, in col. 6, lines 65-60, states if it is desired to detect color reflected from a specific surface, C1 axis may be aligned with that color curve to assist in maximizing variation of luminance for that color which corresponds setting an image correction condition according result of judgment by maximizing variation of luminance for that color).

Regarding claim 7, adjusting the contrast of a component indicating luminosity (Dalke, in col. 6, lines 65-60, maximizing variation of luminance corresponds to adjusting the contrast of a component indicating luminosity).

Regarding claims 8, 11 and 14 discloses detecting a color solid axis of an original image (Dalke in col. 6, lines 45-60, states in the graphic art where shifts from RGB to CYMK are frequent, it is possible to approximate C1, C2 and C3 or I [luminance] x, y [chrominance/color difference] is shown, selection of color coordinates axes may be altered, provided the three axes span color space. FIG 4D illustrate the shifting the C1 or I axis from the luminance area. This corresponds to detecting a color solid axis of an original image);

controlling image correction based on a positional relationship between color solid axis in color space (Dalke, in col. 6, lines 65-60, states if it is desired to detect color reflected from a specific surface, C1 axis may be aligned with that color curve to assist in maximizing variation of luminance for that color and in col. 11, lines 19-25, Fig. 2 describe curves that are representation of tone curve, from sampling of the photograph, it shows reflected light varied in hue and saturation as function of its

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luminosity. This corresponds to controlling image correction based on a positional relationship between color solid axis in color space).

Regarding claim 15-17, detecting luminosity of highlight point and shadow point of an original image (Dalke in col. 11, lines 19-25, Dalke shows flesh tone curve in reflected light varied in hue and saturation as function of its luminosity and figure 2 shows black and white points on luminance axis which corresponds to detecting luminosity of highlight point and shadow point),

obtaining hue of highlight point and shadow point from plural pixel of luminosity (Dalke in figure 2 shows black points and white points which corresponds highlight point and shadow point on the luminosity axis and in col. 11, lines 19-25, Fig 2 describe curves that are representation of tone curve, from sampling of the photograph, it shows reflected light varied in hue and saturation as function of its luminosity which corresponds to obtaining hue of highlight point and shadow point from plural pixel of luminosity),

executing correction on the original image based on the highlight point, shadow point and the hue (Dalke, col. 12, lines 42-52, smooth insertion of color or sharply defined insertion of color. This enable the system to set the natural variation of hue and saturation that occur due lighting and shadows. If desired the weighting function may be altered above and below luminance, so the darker [highlight point] may be lightened without effecting the lighter flesh tones [shadow points]. All this corresponds to executing correction on the original image based on the highlight point, shadow point and the hue),

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execute color fog correction by matching color solid axis of original image with axis indicating luminosity (Dalke, in col. 6, lines 65-60, states if it is desired to detect color reflected light from a specific surface, C1 axis may be aligned with that color curve to assist in maximizing variation of luminance i.e Dalke is correcting areas low variations luminance which is dark or light areas [color fog] by matching or aligning color solid axis of original image with axis indicating luminosity).

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherali Ishrat whose telephone number is 703-308-9589. The examiner can normally be reached on 8:00 AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Au Amelia can be reached on 703-308-6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Ishrat Sherali', written in a cursive style.

Ishrat Sherali

Patent Examiner

Group Art Unit 2621

February 18, 2005

A handwritten signature in black ink, appearing to read 'Amelia M. AU', written in a cursive style.

AMELIA M. AU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600